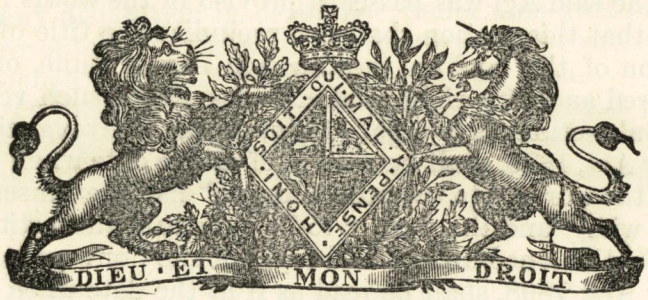
New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

* *

Act No. 37, 1901.

An Act to consolidate certain enactments relating to conveyances, assignments, and titles to lands. [Assented to, 1st November, 1901.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Conveyancing and Law of Property (Supplemental) Act, 1901," and shall be read with the Conveyancing and Law of Property Act, 1898, and is divided into Parts, as follows :— Short title.

PART I.—*Preliminary.*

PART II.—*Married women's reversionary interests in personalty.*

PART III.—*Dower.*

PART IV.—*Illusory appointments.*

PART I.

Preliminary.

Repeal. First Schedule.

2. The Acts in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Correction to s. 3 of No. 17 of 1898.

3. Section three of the Conveyancing and Law of Property Act, 1898, shall be read as if there had been added at the end thereof, at the date when the said Act was passed, a proviso in the words following:—"Provided that this section shall not prejudice the title of any person in possession of the land on the thirtieth day of June, one thousand eight hundred and fifty-eight, and claiming under such vendor."

Correction to s. 68.

4. Subsection sixty-eight (1) (*a*) of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "to the possession or" had been inserted between the word "wife" and the word "to" in the said subsection.

Correction to s. 108.

5. Section one hundred and eight of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "into Court" had not been inserted between the word "payment" and the word "shall," both in subsection (4) and the proviso thereto.

PART II.

Married women's reversionary interests in personalty.

Married women may dispose of reversionary interest in personal estate.

39 Vic. No. 25, s. 1.

6. (1) Every married woman may, by acknowledged deed,

(*a*) dispose of every future or reversionary interest, whether vested or contingent, of such married woman or her husband in her right in any personal estate whatsoever to which she is entitled under any instrument (except such a settlement as hereinafter mentioned);

(*b*) release or extinguish any power which may be vested in or limited or reserved to her in regard to any such personal estate

as fully and effectually as she could if she were a femme sole; and may also by acknowledged deed

(*c*) release her right or equity to a settlement out of any personal estate to which she or her husband in her right may be entitled in possession under any such instrument as aforesaid.

(2) No such disposition, release, or extinguishment shall be valid unless the husband concur in the deed by which the same is effected.

(3) Nothing herein contained shall extend to any reversionary interest to which a married woman becomes entitled by virtue of any deed, will, or instrument by which she is restrained from alienating or affecting the same.

7.

7. Every deed to be executed by a married woman for any of the purposes of this Act shall be acknowledged by her and be otherwise perfected in the manner in and by the Conveyancing and Law of Property Act, 1898, prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land.

How deeds to be acknowledged. 39 Vic. No. 25, s. 2.

8. The powers of disposition given to a married woman by this Part of this Act shall not interfere with any power which independently of this Part of this Act may be vested in or limited or reserved to her so as to prevent her from exercising such power in any case except so far as by any disposition made by her under this Part of this Act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

Powers given not to interfere with other powers. *Ibid.* s. 3.

9. The powers of disposition given to a married woman by this Part of this Act shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage.

Marriage settlement not to be interfered with. *Ibid.* s. 4.

PART III.

Dower.

10. The enactments in the Second Schedule to this Act are, save as hereinafter mentioned, repealed to the extent expressed in the said Schedule:

Statutes relating to dower repealed except as to estates tail.

Provided that such repeal shall not extend to deprive any woman of any right of dower or in the nature of dower which she had at the passing of this Act in the estate or effects of her deceased husband nor to any contingent or vested right of dower which, if the said enactments mentioned in the Second Schedule had remained in full force and effect, a woman would now have or would hereafter acquire in the legal or equitable estates tail of her husband, and, notwithstanding such repeal, such rights shall remain in or accrue to her and may be enforced in the same manner, and shall be subject to the like conditions in all respects as if this Part of this Act had not been passed.

Second Schedule.

PART IV.

Illusory appointments.

11. No appointment hereafter made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached in equity on the ground that an unsubstantial illusory or nominal share only is thereby appointed to or left unappointed to devolve upon anyone or more of the objects of such power,

Illusory appointment valid in equity. 11 Geo. IV and Wm. IV, c. 46, s. 1.

power, but every such appointment shall be valid and effectual in equity, as well as at law, notwithstanding that anyone or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial illusory or nominal share of the property subjected to such power.

Deed declaring amount of share.

11 Geo. IV and Wm. IV, c. 46, s. 2.

12. Nothing in this Part of this Act shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which declares the amount of the share or shares from which no object of the power shall be excluded.

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13. Nothing in this Part of this Act shall be deemed at law or in equity to give any other validity, force, or effect to any appointment than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of the power.

PART V.

Powers of attorney.

Conveyances, &c., under certain powers of attorney executed after death or revocation and before notice thereof to be valid.

17 Vic. No. 22, s. 1.

14. (1) Whenever the person who has executed or hereafter executes any power of attorney (whether within New South Wales or not) has declared or declares therein that such power shall continue in force until notice of his death or of the revocation of such power has been received by the attorneys named therein, then and in every such case, such power shall operate accordingly, and every act done, performed, or submitted to by the said attorneys, within the scope of the powers and authority conferred upon them after such death or revocation as aforesaid, and before notice thereof has been received, and on or after the twenty-sixth day of September one thousand eight hundred and fifty-three, shall be as effectual in all respects as if such death or revocation had not happened or been made.

Proof of non-revocation.

(2) A solemn declaration made by any such attorney that he has not received any notice of the revocation of such power of attorney by death or otherwise shall, if made immediately before or after executing any such conveyance or other instrument as aforesaid, or doing, performing, or submitting to any such act as aforesaid, be taken to be conclusive proof of such non-revocation at the time of such execution in favour of any person who, bonâ fide and for valuable consideration and without notice to himself of any such revocation, has accepted any such conveyance or other instrument from or dealt with such attorney in the name of his principal.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
5 Wm. IV No. 8	An Act for adopting certain Imperial Acts of Parliament.	So much as adopted the Imperial Act, 11 Geo. IV and 1 Wm. IV, c. 46.
17 Vic. No. 22	An Act to give greater effect to powers of attorney.	The whole Act.
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Number of Act.	Title of Act.	Extent of repeal.
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14 Vic. No. 27	An Act to amend the law of dower... ...	The whole Act.
22 Vic. No. 1 ...	Titles to Land Act of 1858	Section 22.

By Authority: William Applegate Gullick, Government Printer, Sydney, 1901.

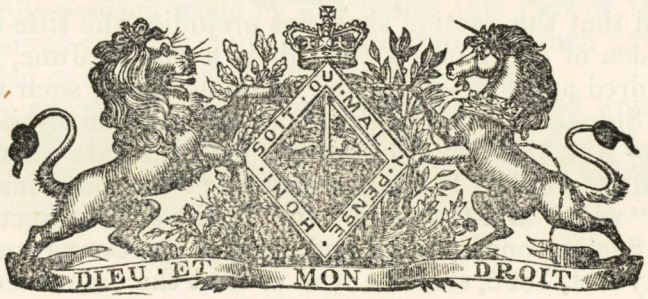
[6*d*.]

I Certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE COUNCIL, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

Legislative Council Chamber,
Sydney, 17*th October,* 1901.

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

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PART I.

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4. Subsection sixty-eight (1) (*a*) of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "to the possession or" had been inserted between the word "wife" and the word "to" in the said subsection.

Correction to s. 103.

5. Section one hundred and eight of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "into Court" had not been inserted between the word "payment" and the word "shall," both in subsection (4) and the proviso thereto.

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as fully and effectually as she could if she were a femme sole; and may also by acknowledged deed

(*c*) release her right or equity to a settlement out of any personal estate to which she or her husband in her right may be entitled in possession under any such instrument as aforesaid.

(2) No such disposition, release, or extinguishment shall be valid unless the husband concur in the deed by which the same is effected.

(3) Nothing herein contained shall extend to any reversionary interest to which a married woman becomes entitled by virtue of any deed, will, or instrument by which she is restrained from alienating or affecting the same.

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7. Every deed to be executed by a married woman for any of the purposes of this Act shall be acknowledged by her and be otherwise perfected in the manner in and by the Conveyancing and Law of Property Act, 1898, prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land.

How deeds to be acknowledged. 39 Vic. No. 25, s. 2.

8. The powers of disposition given to a married woman by this Part of this Act shall not interfere with any power which independently of this Part of this Act may be vested in or limited or reserved to her so as to prevent her from exercising such power in any case except so far as by any disposition made by her under this Part of this Act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

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9. The powers of disposition given to a married woman by this Part of this Act shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage.

Marriage settlement not to be interfered with. *Ibid.* s. 4.

PART III.

Dower.

10. The enactments in the Second Schedule to this Act are, save as hereinafter mentioned, repealed to the extent expressed in the said Schedule:

Statutes relating to dower repealed except as to estates tail.

Provided that such repeal shall not extend to deprive any woman of any right of dower or in the nature of dower which she had at the passing of this Act in the estate or effects of her deceased husband nor to any contingent or vested right of dower which, if the said enactments mentioned in the Second Schedule had remained in full force and effect, a woman would now have or would hereafter acquire in the legal or equitable estates tail of her husband, and, notwithstanding such repeal, such rights shall remain in or accrue to her and may be enforced in the same manner, and shall be subject to the like conditions in all respects as if this Part of this Act had not been passed.

Second Schedule.

PART IV.

Illusory appointments.

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power, but every such appointment shall be valid and effectual in equity, as well as at law, notwithstanding that anyone or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial illusory or nominal share of the property subjected to such power.

Deed declaring amount of share.

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12. Nothing in this Part of this Act shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which declares the amount of the share or shares from which no object of the power shall be excluded.

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PART V.

Powers of attorney.

Conveyances, &c., under certain powers of attorney executed after death or revocation and before notice thereof to be valid.

17 Vic. No. 22, s. 1.

14. (1) Whenever the person who has executed or hereafter executes any power of attorney (whether within New South Wales or not) has declared or declares therein that such power shall continue in force until notice of his death or of the revocation of such power has been received by the attorneys named therein, then and in every such case, such power shall operate accordingly, and every act done, performed, or submitted to by the said attorneys, within the scope of the powers and authority conferred upon them after such death or revocation as aforesaid, and before notice thereof has been received, and on or after the twenty-sixth day of September one thousand eight hundred and fifty-three, shall be as effectual in all respects as if such death or revocation had not happened or been made.

Proof of non-revocation.

(2) A solemn declaration made by any such attorney that he has not received any notice of the revocation of such power of attorney by death or otherwise shall, if made immediately before or after executing any such conveyance or other instrument as aforesaid, or doing, performing, or submitting to any such act as aforesaid, be taken to be conclusive proof of such non-revocation at the time of such execution in favour of any person who, bonâ fide and for valuable consideration and without notice to himself of any such revocation, has accepted any such conveyance or other instrument from or dealt with such attorney in the name of his principal.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
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17 Vic. No. 22	An Act to give greater effect to powers of attorney.	The whole Act.
39 Vic. No. 25	An Act to enable married women to dispose of reversionary interests in personal estate.	The whole Act.

SECOND SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
7 Wm. IV No. 8	An Act for adopting certain Imperial Acts of Parliament.	So much as adopted the Imperial Act, 3 and 4 Wm. IV, c. 105.
14 Vic. No. 27	An Act to amend the law of dower... ...	The whole Act.
22 Vic. No. 1 ...	Titles to Land Act of 1858	Section 22.

In the name and on the behalf of His Majesty I assent to this Act.

FREDK. M. DARLEY,
Lieutenant-Governor.

State Government House,
Sydney, 1*st November*, 1901.

Memo. and Certificate to accompany the Conveyancing and Law of Property (Supplemental) Bill.

THIS Bill consolidates a few sections from various Acts which the course of the consolidation has shown to belong appropriately to this heading of the law. By the use of a saving clause protecting the possible rights of married women to dower in cases of estates tail it has been found possible to remove from the Statute Book the many antiquated provisions relating to the law of dower. The opportunity has also been taken to improve in some respects the wording of some of the sections of the Act No. 17, 1898.

I certify that this Bill solely consolidates, and in no way alters, adds to, or amemds the law as contained in the Acts therein consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

79837 c 87—a

Conveyancing and Law of Property (Supplemental) Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

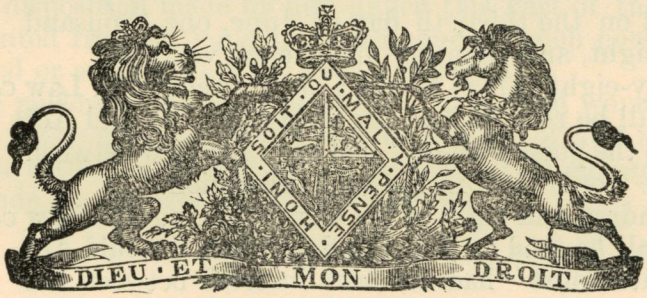
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
11 GEORGE IV AND 1 WILLIAM IV, c. 46 (adopted by 5 Wm. IV No. 8).		
1	11	
2	12	
3	13	
3 AND 4 WILLIAM IV, c. 105 (adopted by 7 Wm. IV No. 8).		
1–14	10	Impliedly repealed by s. 33 of the Probate Act of 1890, except possibly as to dower out of estates tail.
14 VICTORIA No. 27.		
1	10	Impliedly repealed by s. 33 of the Probate Act of 1890, except possibly as to dower out of estates tail.
17 VICTORIA No. 22.		
1	14	
22 VICTORIA No. 1.		
22	10	Impliedly repealed by s. 33 of the Probate Act of 1890.
39 VICTORIA No. 25.		
1	6	
2	7	
3	8	
4	9	

This PUBLIC BILL *originated in the* LEGISLATIVE COUNCIL, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE ASSEMBLY *for its concurrence.*

Legislative Council Chamber,
Sydney, 18th September, 1901.

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

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PART I.

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4. Subsection sixty-eight (1) (*a*) of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "to the possession or" had been inserted between the word "wife" and the word "to" in the said subsection. Correction to s. 68.

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Sydney: William Applegate Gullick, Government Printer.—1901.

[9*d*.]

c 87—B

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Conveyancing and Law of Property (Supplemental) Bill.

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2	12	
3	13	
3 AND 4 WILLIAM IV, c. 105 (adopted by 7 Wm. IV No. 8).		
1–14	10	Impliedly repealed by s. 33 of the Probate Act of 1890, except possibly as to dower out of estates tail.
14 VICTORIA No. 27.		
1	10	Impliedly repealed by s. 33 of the Probate Act of 1890, except possibly as to dower out of estates tail.
17 VICTORIA No. 22.		
1	14	
22 VICTORIA No. 1.		
22	10	Impliedly repealed by s. 33 of the Probate Act of 1890.
39 VICTORIA No. 25.		
1	6	
2	7	
3	8	
4	9	

Legislative Council.

No. , 1901.

A BILL

To consolidate certain enactments relating to conveyances, assignments, and titles to lands.

[Mr. Wise ;—21 *August*, 1901.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Conveyancing and Law of Property (Supplemental) Act, 1901," and shall be read with the Conveyancing and Law of Property Act, 1898, and is divided into Parts, as follows :— Short title.

PART I.—*Preliminary.*

PART II.—*Married women's reversionary interests in personalty.*

PART III.—*Dower.*

PART IV.—*Illusory appointments.*

PART I.

Preliminary.

Repeal. First Schedule.

2. The Acts in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Correction to s. 3 of No. 17 of 1898.

3. Section three of the Conveyancing and Law of Property Act, 1898, shall be read as if there had been added at the end thereof, at the date when the said Act was passed, a proviso in the words following:—"Provided that this section shall not prejudice the title of any person in possession of the land on the thirtieth day of June, one thousand eight hundred and fifty-eight, and claiming under such vendor."

Correction to s. 68.

4. Subsection sixty-eight (1) (*a*) of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "to the possession or" had been inserted between the word "wife" and the word "to" in the said subsection.

Correction to s. 108.

5. Section one hundred and eight of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "into Court" had not been inserted between the word "payment" and the word "shall," both in subsection (4) and the proviso thereto.

PART II.

Married women's reversionary interests in personalty.

Married women may dispose of reversionary interest in personal estate.

39 Vic. No. 25, s. 1.

6. (1) Every married woman may, by acknowledged deed,

(*a*) dispose of every future or reversionary interest, whether vested or contingent, of such married woman or her husband in her right in any personal estate whatsoever to which she is entitled under any instrument (except such a settlement as hereinafter mentioned);

(*b*) release or extinguish any power which may be vested in or limited or reserved to her in regard to any such personal estate

as fully and effectually as she could if she were a femme sole; and may also by acknowledged deed

(*c*) release her right or equity to a settlement out of any personal estate to which she or her husband in her right may be entitled in possession under any such instrument as aforesaid.

(2) No such disposition, release, or extinguishment shall be valid unless the husband concur in the deed by which the same is effected.

(3) Nothing herein contained shall extend to any reversionary interest to which a married woman becomes entitled by virtue of any deed, will, or instrument by which she is restrained from alienating or affecting the same.

7.

7. Every deed to be executed by a married woman for any of the purposes of this Act shall be acknowledged by her and be otherwise perfected in the manner in and by the Conveyancing and Law of Property Act, 1898, prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land.

How deeds to be acknowledged. 39 Vic. No. 25, s. 2.

8. The powers of disposition given to a married woman by this Part of this Act shall not interfere with any power which independently of this Part of this Act may be vested in or limited or reserved to her so as to prevent her from exercising such power in any case except so far as by any disposition made by her under this Part of this Act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

Powers given not to interfere with other powers. *Ibid.* s. 3.

9. The powers of disposition given to a married woman by this Part of this Act shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage.

Marriage settlement not to be interfered with. *Ibid.* s. 4.

PART III.

Dower.

10. The enactments in the Second Schedule to this Act are, save as hereinafter mentioned, repealed to the extent expressed in the said Schedule:

Statutes relating to dower repealed except as to estates tail.

Provided that such repeal shall not extend to deprive any woman of any right of dower or in the nature of dower which she had at the passing of this Act in the estate or effects of her deceased husband nor to any contingent or vested right of dower which, if the said enactments mentioned in the Second Schedule had remained in full force and effect, a woman would now have or would hereafter acquire in the legal or equitable estates tail of her husband, and, notwithstanding such repeal, such rights shall remain in or accrue to her and may be enforced in the same manner, and shall be subject to the like conditions in all respects as if this Part of this Act had not been passed.

Second Schedule.

PART IV.

Illusory appointments.

11. No appointment hereafter made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached in equity on the ground that an unsubstantial illusory or nominal share only is thereby appointed to or left unappointed to devolve upon anyone or more of the objects of such power,

Illusory appointment valid in equity. 11 Geo. IV and Wm. IV, c. 46, s. 1.

power, but every such appointment shall be valid and effectual in equity, as well as at law, notwithstanding that anyone or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial illusory or nominal share of the property subjected to such power.

Deed declaring amount of share.
11 Geo. IV and Wm. IV, c. 46, s. 2.

12. Nothing in this Part of this Act shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which declares the amount of the share or shares from which no object of the power shall be excluded.

Ibid. s. 3.

13. Nothing in this Part of this Act shall be deemed at law or in equity to give any other validity, force, or effect to any appointment than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of the power.

PART V.

Powers of attorney.

Conveyances, &c., under certain powers of attorney executed after death or revocation and before notice thereof to be valid.
17 Vic. No. 22, s. 1.

14. (1) Whenever the person who has executed or hereafter executes any power of attorney (whether within New South Wales or not) has declared or declares therein that such power shall continue in force until notice of his death or of the revocation of such power has been received by the attorneys named therein, then and in every such case, such power shall operate accordingly, and every act done, performed, or submitted to by the said attorneys, within the scope of the powers and authority conferred upon them after such death or revocation as aforesaid, and before notice thereof has been received, and on or after the twenty-sixth day of September one thousand eight hundred and fifty-three, shall be as effectual in all respects as if such death or revocation had not happened or been made.

Proof of non-revocation.

(2) A solemn declaration made by any such attorney that he has not received any notice of the revocation of such power of attorney by death or otherwise shall, if made immediately before or after executing any such conveyance or other instrument as aforesaid, or doing, performing, or submitting to any such act as aforesaid, be taken to be conclusive proof of such non-revocation at the time of such execution in favour of any person who, bonâ fide and for valuable consideration and without notice to himself of any such revocation, has accepted any such conveyance or other instrument from or dealt with such attorney in the name of his principal.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
5 Wm. IV No. 8	An Act for adopting certain Imperial Acts of Parliament.	So much as adopted the Imperial Act, 11 Geo. IV and 1 Wm. IV, c. 46.
17 Vic. No. 22	An Act to give greater effect to powers of attorney.	The whole Act.
39 Vic. No. 25	An Act to enable married women to dispose of reversionary interests in personal estate.	The whole Act.

SECOND SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
7 Wm. IV No. 8	An Act for adopting certain Imperial Acts of Parliament.	So much as adopted the Imperial Act, 3 and 4 Wm. IV, c. 105.
14 Vic. No. 27	An Act to amend the law of dower... ...	The whole Act.
22 Vic. No. 1 ...	Titles to Land Act of 1858	Section 22.

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[9*d*.]

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